

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CURT THOMAS,	)	
	)	
Plaintiff,	)	
	)	2:10cv7
v.	)	Electronic Mail
	)	
PENNSYLVANIA BOARD OF	)	
PROBATION & PAROLE; CYNTHIA	)	Judge Cercone
DAUB <i>Secretary</i> ; LOUIS FOLINO,	)	Magistrate Judge
<i>Superintendent</i> ; UNIT MANAGER PAUL	)	
PALYA; <i>Counselor</i> ; MARIE	)	
BALESTRIERI; DOCTOR JIN, <i>Medical</i>	)	
<i>Director</i> ; <i>Parole Interviewer</i> MR. PARKER;	)	
CAPTAIN HAYWOOD; AND CAPTAIN	)	
ODDO.	)	
	)	
Defendants.		

**MEMORANDUM ORDER**

The above captioned case was initiated by the filing of a motion to proceed *in forma pauperis* (ECF No. 1) on October 30, 2009, and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and rules 72.C and 72.D of the local rules of court.

On May 17, 2011, the magistrate judge filed a Report and Recommendation (ECF No. 47) recommending that the Motion to Dismiss filed by Defendant Dr. Jin (ECF No. 38) be granted, that the Motion to Dismiss filed by Defendants Marie Balestrieri, Cynthia Daub, Louis Folino, Paul Palya, and the Pennsylvania Board of Probation & Parole (ECF No. 40) be granted, and that the Second Amended Complaint be dismissed as to the unserved Defendants under the PLRA. Plaintiff filed Objections to the Report and Recommendation on June 7, 2011 (ECF No. 49). Plaintiff's Objections do not undermine the recommendation of the magistrate judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

**AND NOW**, this <sup>13</sup>~~20~~ day of June, 2011,

**IT IS HEREBY ORDERED** that the Motion to Dismiss filed by Defendant Dr. Jin (ECF No. 38) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Motion to Dismiss filed by Defendants Marie Balestrieri, Cynthia Daub, Louis Folino, Paul Palya, and the Pennsylvania Board of Probation & Parole (ECF No. 40) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Second Amended Complaint is **DISMISSED** as to the unserved Defendants under the PLRA.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF. No. 47) dated May 17, 2011, is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



David Stewart Cercone  
United States District Judge

cc: Curt Thomas  
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SCI Graterford  
P. O. Box 244  
Graterford, PA 19426  
(Via First Class Mail)

Paul R. Scholle, Esquire  
Kathryn M. Kenyon, Esquire  
(Via CM/ECF Electronic Mail)